

Staff Report

Subject: Rezone (First District)
Author: Katie Dunnigan, Zoning Manager
Department: Development Services
Meeting Date: February 7, 2023
Item Description: **Cynthia & Charles Drown** request a **variance** from section 6.2.12(1), to waive the restriction that a private, unpaved road may only serve three lots. Located on 3154 Midland Road, zoned **R-1. Map# 374 Parcel# 16**

Summary Recommendation

Staff has reviewed the application, and recommends **approval** of the request **variance** from section 6.2.12(1), to waive the restriction that a private, unpaved road may only serve three lots, with conditions.

Executive Summary/Background

- Pursuant to Appendix C-Zoning Ordinance, Article VII-Planning Board, Section 7.1.8, variances may only be granted if the following findings are made:
 - That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness, of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not to circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located; and*
 - That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.*
- This parcel accesses Midland road via a series of access easements. These easements currently serve 1-7 lots.
- Ability to create alternative access is heavily encumbered by wetlands.
- The parcel was rezoned, with four contiguous parcels, to R-1 in 1996 with the intent to develop a golf course, and is not part of an organized subdivision.
- This R-1 grouping ranging in lot size from 1 acre to 6.18 acres, with the applicant's parcel being the largest, creation of a 1-acre home site would be a reasonable request if the existing access was not already overserved.
- At the January 18, 2023 Planning Board meeting, Mr. Ryan Thompson made a motion for approval, with conditions:
 1. The lots shall meet the requirements of the R-1 zoning district.
 2. Minor subdivision plat must be approved by Development Services and Environmental Health, and be recorded, before the rezoning can take effect.
 3. The minor subdivision plat must include an "easement access and maintenance statement" granting access to Midland Road and signed by all impacted property owners.
 4. No further subdivision of the property shall occur without improvements which bring the unpaved easement to County standards.
- The motion was seconded by Mr. Alan Zipperer, and carried unanimously.

Alternatives

1. **Approve** the request for a **variance** from section 6.2.12(1), with the following conditions:
 1. The lots shall meet the requirements of the R-1 zoning district.
 2. Minor subdivision plat must be approved by Development Services and Environmental Health, and be recorded, before the rezoning can take effect.
 3. The minor subdivision plat must include an "easement access and maintenance statement" granting access to Midland Road and signed by all impacted property owners.

4. No further subdivision of the property shall occur without improvements which bring the unpaved easement to County standards.

2. **Deny** the request for a **variance** from section 6.2.12(1).

Recommended Alternative: 1

Other Alternatives: 2

Department Review: Development Services

FUNDING: N/A

Attachments: 1. Variance application

3. Site Plan

5. Deed

4. Ownership certificate/authorization 4. Aerial photograph